

Members of the Judicial Committee:

I am writing to OPPOSE proposed Raised Bill No. 6355, "An Act Concerning Risk Protection Orders or Warrants."

My comments in opposition are as follow:

1. The proposed changed to Section 1(a) makes a bad law worse by unreasonably expanding the pool of people who may file a complaint to include people who are completely unqualified to know or to assess whether or not an individual poses a risk to him/herself or to others. By so doing, the law opens to door still wider to revenge complaints by persons whose only purpose in making the complaint would be to harass the individual who is the target of the complaint.

The proposed revisions expands to pool of individuals who may DIRECTLY file a complaint to include "family or household members." When we look at the definition in Section (g) of who is included as a "family or household member," we find that it includes family members who may not (and probably do not) live under the same roof (grandparents, grandchildren, parents-in-law, brother- or sister-in-law. Such relatives usually do not live under the same roof, and may harbor personal grudges that they can pursue through using these emergency protective orders to annoy, harass, and persecute relatives.

But the list goes even beyond distant relatives who do not live under the same roof; it also includes "dating or intimate partner of the person subject to the complaint." This is a wide-open invitation for a jilted or star-struck lover to get back at someone who may have innocently terminated -- or even declined to enter into -- a relationship. The terms themselves are not adequately defined. How many dates are involved before a relationship constitutes one of "dating partners"? One date? Two dates? How many -- and does the law refer only to CURRENT dating relationships, or does it encompass past dating relationships that have ended? How long must a "dating partner" relationship have been ended before it no longer constitutes a "dating partner" relationship within the context of the proposed law? Or does one date make someone forever in danger of having an order taken out against them by the other person?

The same vagueness applies to "intimate partner." Does this mean a current, on-going or very recent past intimate relationship, or ANY intimate interaction of any duration? Does it include the participants in a proverbial "one night stand" or "hook up," which is not generally regarded as a relationship but, rather, as an isolated act? Such one night stands often result in hurt feelings and feelings of rejection even when there is no overt or implied threat. The vagueness of the proposed law makes it an ideal

vehicle for the partner who feels that he or she was used in a one night stand situation to pursue vengeance through the medium of this proposed law. Such vagueness is unacceptable, and is likely unconstitutional.

This objection applies further to the inclusion of a "person who has a child in common with the person subject to the complaint." It is well documented in multiple cases spanning numerous other states that these "red flag" emergency protective orders are being widely used as a vehicle to gain advantage in divorce, child support, and child custody cases.

In summary, the broadening of the pool of those who can directly file these complaints is unwarranted, unnecessary, and dangerous. Especially given that these emergency protective orders turn due process upside down and inside out by calling for confiscation of legal property and the suspension of a Constitutional right BEFORE there has been any hearing or adjudication, to allow these orders to be issued without even a modicum of investigation before hand is indefensible and abhorrent.

2. The proposed changes to the law would remove the opportunity for a person subject to an emergency protective order to have his firearm or firearms transferred to another person who is legally allowed to possess firearms. Instead, the revision would only allow such firearms to be transferred to a federally-licensed firearms dealer (an "FFL"). In practice, this is something effectively outside the realm of reality. Many people who own one firearm own multiple firearms. Gun dealers (FFLs) are in business. They do not typically have vast amounts of empty space in gun safes, where they can accommodate even a modest collection of firearms belonging to a person subject to an order. In addition, the law does not address liability or responsibility for damage. Firearms seized under these orders have value and they remain the property of the person subject to an order. Each and every time a firearm is handled or moved it is open to the risk of damage that may reduce (or completely destroy) its value. The law needs to provide for protection of the value of any firearms seized under this law. Further, most FFLs (all those with whom I have discussed the proposed new language) are in agreement that they would not undertake the storage of seized firearms at all, because there is no way to predict how long they might have to retain them.

Accordingly, although the proposed change purports to offer an option for storage of seized firearms with someone other than the police, in practice the proposed change effectively negates that option entirely.

3. Perjury. As noted above, it has been documented in numerous cases in multiple other states that complaints under so-called "red flag" emergency protective orders have been filed falsely, as a medium of harassment and revenge. The proposed changes to the law state that the complain shall be made under oath, but the law and the proposed changes make no provision for penalty if the complaint is fraudulent.

The result of these emergency protective orders is the removal of a Constitutionally guaranteed right ... PRIOR to the subject of the order having been afforded an opportunity to appear in his or her own defense. When the consequence of these complaints is the removal of a Constitutional right, there needs to be a penalty for abusing the system, and the penalty needs to be sufficiently severe to substantially curtail and effectively prevent potential abuse of the system.

Respectfully,

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